

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GARY MILLER, on behalf of himself and all :  
others similarly situated, :  
: 08 Civ. 3012 (AKH)  
Plaintiff, :  
-against- :  
: MORGAN STANLEY & CO., INCORPORATED, :  
: Defendant. :  
----- x  
SHARON SHAWN JAMAIL, individually and on :  
behalf of all others similarly situated, :  
: 08 Civ. 3178 (AKH)  
Plaintiff, :  
-against- :  
: MORGAN STANLEY and MORGAN STANLEY :  
& CO., INCORPORATED, :  
: Defendants. :  
----- x  
JAMES R. BARTHOLOMEW, on behalf of :  
himself and all others similarly situated, :  
: 08 Civ. 4910 (AKH)  
Plaintiff, :  
-against- :  
: MORGAN STANLEY and MORGAN STANLEY :  
& CO., INCORPORATED, :  
: Defendants. :  
----- x  
ALVIN K. HELLERSTEIN, U.S.D.J.:

**ORDER DENYING MOTIONS FOR CONSOLIDATION, APPOINTMENT OF LEAD  
PLAINTIFF AND APPROVAL OF SELECTION OF COUNSEL WITHOUT  
PREJUDICE**

Plaintiffs, in these three separately-filed actions, bring suit against Morgan Stanley and Morgan Stanley & Co., Incorporated (“Morgan Stanley”), alleging wrongdoing in

connection with the sale of auction rate securities (ARS). In May 2008, a plaintiff group made a motion for appointment as lead plaintiff and for approval of their selection for lead counsel.

Another plaintiff group filed a motion to consolidate the actions, for appointment as lead plaintiff and for approval of selection of counsel in June 2008.

By order dated June 25, 2008, I asked the parties whether the motions for consolidation and appointment of lead plaintiff and counsel should be withdrawn in light of the motion before the Judicial Panel on Multidistrict Litigation (“MDL Panel”) to transfer all the ARS actions to a single court for consolidated pre-trial proceedings. In response, one plaintiff group withdrew its motion, conceding that the second plaintiff group was in a better position to represent the class. All parties asked the Court to consolidate the actions, appoint lead plaintiff and appoint counsel before staying the action pending the decision of the MDL Panel. In their response to my June 25, 2008 order, defendants filed a motion for consolidation.

Because the Panel is currently considering, pursuant to 28 U.S.C. § 1407, whether these cases raise common questions of fact with other litigation pending across the country such that the cases should be coordinated or consolidated for pretrial proceedings, there is no utility in ruling on the motions for consolidation and for appointment of lead plaintiff and counsel at this time, and therefore, I deny the motions. The parties are free to renew their motions again once the MDL Panel has reached a decision.

SO ORDERED.

Dated: July 9, 2008  
New York, New York

  
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ALVIN K. HELLERSTEIN  
United States District Judge